IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 14312 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

MRADULABEN WD/O BHAICHANDBHAI P. MEHTA & 1 - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

==========

Appearance :

MR MEHUL S SHAH for Petitioner(s) : 1 - 2, 2.2.1, 2.2.2,2.2.3 MR SURESH M SHAH for Petitioner(s) : 1 - 2, 2.2.1, 2.2.2,2.2.3
MR PATHIK ACHARYA, ASSTT GOVERNMENT PLEADER for the Respondents

==========

CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 09/08/2007

ORAL JUDGMENT

1. Present petition is filed challenging show cause notice dated 21.02.2007- at Annexure-'B' issued for alleged breach of Saurashtra Gharkhed Ordinance No.1949.

2. Mr. Shah, learned advocate for petitioners, invited attention of the Court to the contents of the notice, wherein it is stated that, Revenue Survey No.325 Paiki- agricultural land was sold by Kanaiyalal Naranbhai Kotecha by a registered sale deed bearing No.1775 dated 13.4.1966 to Shri Mansukhlal Premchandbhai and Bhaichand Premchandbhai. Mutation Entry being No.3635 dated 13.4.1966 was entered into. After the aforesaid transaction, on the basis of the same, the land of Bhurubha Hemantsang admeasuring 4 acre and 4 gunthas of Revenue Survey No.107 paiki of village Nanamva of Rajkot Taluka was purchased by Mansukhlal Premchand Mehta by a registered sale dated 5.4.1966. Mutation Entry No.300 was made on 1.7.1966. The land of village Nanamva of Survey No.107 was, later on, got converted into N.A. land. Said Shri Mansukhlal Premchand Mehta died on 15.2.1989 and on the sad demise of Shri Mehta, on the basis of the certificate of inheritance, names of the heirs of said Shri Mehta were entered into by Entry No.6692.

By notice dated 21.02.2007, the addressee is called upon to explain as to why action should not be taken for violation of the provisions of Saurashtra Gharkhed Ordinance No.1949 as on the date of purchase of the land, the aforesaid purchasers Shri Mansukhlal Mehta and Bhaichand Premchandbhai were not agriculturists and that they had not produced any material in support thereof. The notice further states that on the basis of the

information received from the Mamlatdar, Rajkot City and Rajkot Taluka, it is noticed that Section 54 of Saurashtra Gharkhed Ordinance No.1949 was breached as for the purchase of the land aforesaid, no permission was taken from the Revenue Officer.

3. Mr. Shah, learned advocate for the petitioners, submitted that the show cause notice for the transaction of 1966 is issued in the year 2007. He submitted that the same is vitiated on account of gross delay as the notice is issued after 41 years.

4. Mr. Shah, learned advocate for the petitioners, relied upon various decisions of this Court, wherein it is held that, 'a transaction can be taken into scrutiny but within a reasonable time'. He submitted that even with stretched imagination, stretched to an extent that it breaks, '41' years, cannot be brought in the definition of 'reasonable time'. On this short ground, the show cause notice issued by Deputy Collector, Rajkot is required to be quashed and set aside.

5. Heard learned Assistant Government Pleader Mr. Pathik Acharya. Despite his best efforts, he could not convince this Court that exercise of scrutiny by issuing the impugned show cause notice can be said to have been undertaken within 'reasonable time', particularly when action is taken after 41 years. On this short ground, the petition succeeds. Show cause notice dated 21.02.2007 is quashed and set aside.

6. The petition is allowed. Rule is made absolute with no order as to costs.

(RAVI R. TRIPATHI, J.)

omkar